

# BILL ANALYSIS

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Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Ma, et al.	AB 1987

## SUBJECT

State Employees - Retirees Who Have Not Reinstated May Not Perform Services For State Until Separated From Service For At Least 180 Days

## SUMMARY

This bill would, among other things, prohibit any retired state employee that has not reinstated to active service after retirement from performing services for any employer whose employees are covered by the state retirement system from which the employee retired, until that retired state employee has been separated from service for at least 180 days.

This analysis does not address the other provisions of the bill relating to the calculation of final compensation for purposes of determining retirement benefits or the provisions of the bill relating to the County Employee Retirement Law of 1937.

## PURPOSE OF BILL

According to the author's office, the purpose of this bill is to attack abusive retirement compensation practices, to prevent a few individuals from putting retirement at risk for the vast majority of honest, hard-working public servants, and to give retirement systems the tools to keep their assets safe and secure.

## EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2011, and operative on July 1, 2011, except that provisions of the bill impacting the department are specifically operative for state employees retiring on or after January 1, 2012. This bill would become operative only if SB 1425 (Simitian, et al, 2009/10) is also enacted and takes effect on or before January 1, 2011.

## ANALYSIS

### STATE LAW

Current state law allows retired California Public Employee Retirement System (CALPERS) members, without reinstatement to active service, to work as a retired annuitant for any employer whose employees are covered by CALPERS. Positions in which a retired annuitant may be utilized must be of limited duration and require specialized skills. Retired annuitants may not work more than 960 hours per fiscal year and do not accrue service credit or otherwise acquire any additional retirement benefits from the retiree employment.

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Current state law does not specify a number of days that must elapse from separation before a retired member can work as a retired annuitant.

## **BACKGROUND**

The Franchise Tax Board (FTB) currently employs approximately 50 retired annuitants and all perform short term services in critical need areas where no other viable option exists to immediately fill the position. Because the department utilizes retired annuitants in critical need areas, most retired annuitants employed by the FTB return to work for the department immediately after retirement. Current duties of retired annuitants working for the FTB include the following:

1. Finishing large, complex audits of multistate corporations and banks. In instances where an employee retires before completion of an audit that is extremely complicated, it would cause an unreasonable delay and possibly jeopardize the outcome of the audit to reassign the audit to another employee that is unfamiliar with the particular details of the examination.
2. Performing highly technical information technology duties on projects and FTB legacy systems that, if delayed, could imperil the FTB's ability to timely assess and collect the proper amount of tax revenue. Many of the department's legacy technology systems are built on dated technology platforms no longer readily supported by outside industry, which further reduces the FTB's options for critical information technology support.
3. Training successor staff members on technical matters pertaining to some of the most complex tax laws. Recently the department has been experiencing an increase in sudden retirements of key staff due to compensation issues involving furloughs, proposed pay cuts, and uncertainties pertaining to proposed retirement benefit modifications. Employment of retired annuitants provides a mechanism to transfer key institutional knowledge to successor staff, which absent the sudden retirement, would have otherwise occurred prior to the annuitant's retirement.

## **THIS BILL**

This bill would prohibit any retired state employee that has not reinstated to active service after retirement from performing services, whether as an employee, through a third party, or as an independent contractor, for any employer whose employees are covered by the state retirement system from which the employee retired, until that retired state employee has been separated from service for at least 180 days.

The above provision would apply to state employees retiring on or after January 1, 2012.

## LEGISLATIVE HISTORY

SB 1425 (Simitian, et al, 2009/10) would make changes to the calculation of final compensation for purposes of determining retirement benefits for members of CALPERS and the State Teachers Retirement System. This bill would also prohibit a retiree from returning to work as a retired annuitant or as a contract employee for a period of 180 days after retirement. SB 1425 would only become operative if this bill [AB 1987 (Ma, et al, 2009/10)] is enacted and takes effect on or before January 1, 2011.

## FISCAL IMPACT

This bill would result in minor salary savings to the extent the department delays employing retired annuitants for 180 days as required.

## ECONOMIC IMPACT

### Revenue Estimate

If the FTB is required to wait 180 days from the date an employee retires before employing that individual as a retired annuitant, revenue producing activities, technology projects, and maintenance of legacy systems would be adversely impacted. As noted in the "Background" section of this analysis, the FTB only employs retired annuitants in positions that require short term services in critical need areas where no other viable option exists to fill the position immediately. Few, if any, options exist for the FTB to mitigate the adverse impacts of this provision of the bill.

Estimated Revenue Impact of AB 1987 Enactment Assumed September 30, 2010 (\$ in Millions)					
Fiscal Year	2010-11	2011-12	2012-13	2013-14	2014-15
Revenue Loss	-\$0.2	-\$0.7	-\$1.4	-\$1.8	-\$1.8

This estimate does not account for changes in employment, personal income, or gross state product that could result from this bill.

## Appointments

None.

## Support/Opposition

Support: Unknown

Opposition: Unknown

## **VOTES**

Assembly Floor – Ayes: 75, Noes: 0  
Senate Floor – Ayes: 28, Noes: 1  
Concurrence – Ayes: 77, Noes: 0

## **LEGISLATIVE STAFF CONTACT**

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